

PART 94—RINDERPEST, FOOT-AND-MOUTH DISEASE, FOWL PEST (FOWL PLAGUE), VELOGENIC VISCEROTROPIC NEWCASTLE DISEASE, AFRICAN SWINE FEVER, HOG CHOLERA, AND BOVINE SPONGIFORM ENCEPHALOPATHY: PROHIBITED AND RESTRICTED IMPORTATIONS

1. The authority citation for part 94 continues to read as follows:

Authority: 7 U.S.C. 147a, 150ee, 161, 162, and 450; 19 U.S.C. 1306; 21 U.S.C. 111, 114a, 134a, 134b, 134c, 134f, 136, and 136a; 31 U.S.C. 9701; 42 U.S.C. 4331, and 4332; 7 CFR 2.17, 2.51, and 371.2(d).

§ 94.12 [Amended]

2. In § 94.12, paragraph (a) is amended by adding "Germany," immediately after "Finland,".

§ 94.13 [Amended]

3. In § 94.13, the introductory text, the first sentence is amended by adding "Germany," immediately after "Denmark,".

Done in Washington, DC, this 20th day of November 1995.

Terry Medley,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 95-28763 Filed 11-24-95; 8:45 am]

BILLING CODE 3410-34-P

NATIONAL CREDIT UNION ADMINISTRATION

12 CFR Part 701

Organization and Operations of Federal Credit Unions

AGENCY: National Credit Union Administration (NCUA).

ACTION: Final rule.

SUMMARY: The NCUA Board is broadening loan participation authority by removing the requirement that the participation agreement precede the originating loan's disbursement. Deleting this requirement will provide federal credit unions (FCUs) more flexibility to manage liquidity.

EFFECTIVE DATE: January 26, 1996.

FOR FURTHER INFORMATION CONTACT:

Mary F. Rupp, Staff Attorney, Office of General Counsel, National Credit Union Administration, 1775 Duke Street, Alexandria, Virginia 22314-3428 or telephone: (703) 518-6540.

SUPPLEMENTARY INFORMATION:

Background

The rule proposed by the Board would delete the current requirement

that the participation agreement precede any disbursement of the originating loan's proceeds. 60 FR 39273 (August 2, 1995). The proposal required the "originating lender" to use the same underwriting standards it uses for loans that are not being sold as participation loans unless there is a participation agreement in place prior to the disbursement of the loan. If a participation agreement is in place prior to disbursement, all of the participating credit unions will have agreed on underwriting standards. The originating lender would reflect those standards either in its loan policies or the participation agreement. Also, the proposal required the purchaser of a participation interest to have a policy in place prior to entering into a participation agreement. Current Section 701.22(b)(2), as well as the proposed rule, allow either the board of directors or the investment committee to execute the participation agreement.

Summary of Comments

The NCUA received 35 comments on the proposed rule: 27 from credit unions; 3 from credit union trade groups; 4 from credit union leagues; and 1 from an attorney. All 35 commenters support deleting the requirement that the loan participation agreement precede the loan disbursement. Some of the recurring reasons given in support were that it will: enable credit unions to increase their loan-to-share ratios if they desire; enable credit unions with high loan-to-share ratio to sell loans and increase service to members by originating more loans; enable small credit unions to better service their members; be used by credit unions as a liquidity management tool; and enable credit unions to help each other.

Comments were requested on two specific issues. The first issue is whether the rule should require that an agreement be in place either prior to the disbursement of the loan if that loan is intended for a participation or prior to the sale if the loan was originally made to hold in portfolio. Five commenters supported a requirement that the participation agreement be executed prior to disbursement of the loan if the loan is intended for participation. However, as one commenter noted, it would be difficult to determine the intent of the lender at the time the loan is made. As the rule requires the originating lender to use the same underwriting standards it uses for its nonparticipation loans, unless it has a participation agreement in place, the Board does not believe the additional requirement is necessary.

Six commenters said that the rule should require a participation

agreement to be in place prior to the sale of the loan. This requirement is in the proposed rule and we have adopted it in the final rule. Section 701.22(b)(2) has been modified in the final rule to clarify that the loans must be identified prior to their sale and that the identification need not occur in the master participation agreement but may be in an addendum to the agreement in a format to be determined by the participating credit unions.

The second specific request for comment was whether the final rule should be amended to limit execution of the participation agreement to the board of directors. The current Section 701.22(b)(2), as well as the proposed rule, permit the board of directors to determine whether they or the investment committee will execute a participation agreement. Of the 17 commenters that responded to the issue, all agreed that the authority to execute should not be limited to the board of directors and some suggested expanding the authority to include management. The commenters noted that Section 701.22(b) limits the formulation of a participation policy to the board of directors. Those executing the agreement would be acting within policies established by the board of directors. With these safeguards in place, the Board agrees that the credit union board of directors should have this greater flexibility to delegate execution of the master participation agreement to either the investment committee or senior management.

One commenter suggested that the final rule require "no less stringent underwriting standards for participation loans than for non-participation loans." As stated in the preamble to the proposal, credit unions are expected to "exercise due diligence before entering into participation agreements * * *." 60 FR 39273 (August 2, 1995). The amendments will allow a small credit union which, for example, has liquidity problems and limits on loan amounts, to enter into a participation agreement with a larger credit union which sets unique loan participation underwriting standards. The participation agreement may provide for higher loan amounts because the small credit union is assured that a portion of the loan will be purchased by the larger credit union.

A few commenters asked the Board to consider relaxing current Section 701.22(c)(2) which requires the originating lender to maintain a ten percent interest in the loans it sells. This provision is mandated by Section 107(5)(E) of the Federal Credit Union Act (12 U.S.C. 1757(5)(E)) which the Board may not amend by a regulation.

Final Rule

The final rule adopts with minor modifications the proposed rule published on August 2, 1995. 60 FR 39273.

Regulatory Procedures

Regulatory Flexibility Act

The Regulatory Flexibility Act requires the NCUA to prepare an analysis to describe any significant economic impact any regulation may have on a potential number of small credit unions (primarily those under \$1 million in assets). The NCUA Board has determined and certifies under the authority granted in 5 U.S.C. 605(b) that the final rule, if adopted, will not have a significant economic impact on a substantial number of small credit unions. Accordingly, the NCUA Board has determined that a Regulatory Flexibility Analysis is not required.

Paperwork Reduction Act

NCUA has determined that the requirement to establish a written participation policy and agreement in connection with loan participations constitutes a collection of information under the Paperwork Reduction Act. The Paperwork Reduction Act of 1995 and regulations of the Office of Management and Budget (OMB) require that the public be provided an opportunity to comment on information collection requirements, including an agency's estimate of the burden of the collection of information. 60 FR 44978 (August 29, 1995). The requirement to have a participation agreement exists under the current rule. 12 C.F.R. 701.22(b)(2). NCUA estimates that no more than 1000 federal credit unions will seek to implement a loan participation program. It is NCUA's view that the time spent developing a policy and agreement is not a burden created by this regulation but rather is necessary to establish a safe and sound loan participation program. The paperwork burden created by this rule is the requirement that such policy and agreement be put in writing. NCUA estimates that it should take three hours to prepare the participation policy and one hour to put a participation agreement in written form. Therefore, 4000 total burden hours are required to comply with the collection requirement.

The NCUA Board invites comment on: (1) Whether the collection of information is necessary for the proper performance of the functions of NCUA, including whether the information will have practical utility; (2) the accuracy of NCUA's estimate of the burden of the collection of information; (3) ways to

enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information. Send comments to Suzanne Beauchesne, National Credit Union Administration, 1775 Duke Street, Alexandria, VA 22314-3428. Comments should be postmarked by January 26, 1996.

After 60 days, NCUA will submit the paperwork requirement to OMB for review under the Paperwork Reduction Act and will publish a notice to that effect in the Federal Register. NCUA will also publish a document in the Federal Register once OMB takes action on the submitted request. Until NCUA receives an OMB control number indicating approval of the requirement that participation policies and agreements be put in writing, a credit union is not required to comply with that requirement.

Executive Order 12612

This amendment does not affect state regulation of credit unions. It implements provisions of the Federal Credit Union Act applying only to federal credit unions.

List of Subjects in 12 CFR Part 701

Credit, Credit unions, Reporting and recordkeeping requirements.

By the National Credit Union Administration Board on November 16, 1995.
Becky Baker,

Secretary of the Board.

Accordingly, NCUA amends 12 CFR chapter VII as follows:

PART 701—ORGANIZATION AND OPERATION OF FEDERAL CREDIT UNIONS

1. The authority citation for part 701 continues to read as follows:

Authority: 12 U.S.C. 1752(5), 1755, 1756, 1757, 1759, 1761a, 1761b, 1766, 1767, 1782, 1784, 1787, 1789 and Pub. L. 101-73. Section 701.6 is also authorized by 31 U.S.C. 3717. Section 701.31 is also authorized by 15 U.S.C. 1601, et seq., 42 U.S.C. 1981 and 42 U.S.C. 3601-3610.

Section 701.35 is also authorized by 12 U.S.C. 4311-4312.

2. Section 701.22 is amended by revising paragraphs (a)(1), (b)(2), (c)(4) and (d)(1) to read as follows:

§ 701.22 Loan participation.

(a) * * *

(1) *Participation loan* means a loan where one or more eligible organizations participates pursuant to a written agreement with the originating lender.

* * * * *

(b) * * *

(2) a written master participation agreement shall be properly executed, acted upon by the Federal credit union's board of directors, or if the board has so delegated in its policy, the investment committee or senior management official(s) and retained in the Federal credit union's office. The master agreement shall include provisions for identifying, either through a document which is incorporated by reference into the master agreement or directly in the master agreement, the participation loan or loans prior to their sale; and

* * * * *

(c) * * *

(4) Require the credit committee or loan officer to use the same underwriting standards for participation loans used for loans that are not being sold in a participation agreement unless there is a participation agreement in place prior to the disbursement of the loan. Where a participation agreement is in place prior to disbursement, either the credit union's loan policies or the participation agreement shall address any variance from non-participation loan underwriting standards.

(d) * * *

(1) Participate only in loans it is empowered to grant, having a participation policy in place which sets forth the loan underwriting standards prior to entering into a participation agreement;

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DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 33

[Docket No. 95-ANE-42; Notice No. SC-95-04-NE]

Special Conditions: Allison Engine Company Model 250-C40 Turboshaft Engine

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final special conditions.

SUMMARY: These special conditions are issued for the Allison Engine Company (AE) Model 250-C40 turboshaft engine. This engine will have novel or unique engine ratings that are not defined by the applicable airworthiness regulations. These special conditions contain the additional safety standards which the Administrator considers necessary to establish a level of safety equivalent to that established by the